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July 29, 2021

VIA ECF

The Honorable Ona T. Wang
United States Magistrate Judge
United States District Court for the Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10007

Re: *In re Application of Vale S.A. et al.*, No. 20-mc-199-JGK-OTW

Dear Judge Wang:

We write on behalf of Vale S.A., Vale Holdings B.V., and Vale International S.A. (collectively, “Vale”) to respectfully request that the Court, pursuant to Rule 37(a) and Rule 45(d)(2)(B)(i) of the Federal Rules of Civil Procedure, compel respondent Nir Meir (“Meir”) to complete production of responsive documents by no later than August 6, 2021, more than one year after the Court granted Vale’s application to obtain this discovery, ECF No. 45 at 9, and six months after the Court denied the motion to quash filed by Meir and HFZ Capital Group LLC (“HFZ”)¹ and ordered Meir and all other respondents to respond to the subpoenas by February 5, 2021. ECF No. 76 at 9.

On January 28, 2021, shortly after Meir departed HFZ, Meir’s counsel appeared in this case and indicated that Meir would produce documents responsive to Vale’s subpoena separately from HFZ. *See* ECF No. 75 (Richard Wolter, David Hatcher & Citron LLP Notice of Appearance). *See also* Ex. A (Email from R. Wolter to A. Saenz *et al.* dated Mar. 12, 2021). Despite numerous meet and confers and repeated assurances by Meir’s counsel that a production of documents was imminent, Meir has yet to produce a single document. Meir’s counsel first indicated that a

¹ HFZ’s motion to quash was filed on behalf of over 25 entities and individuals, including Meir, HFZ’s former Managing Principal. *See* ECF No. 63.

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production would be made by April 30, 2021. *See id.* (Email from R. Wolter to A. Saenz dated April 22, 2021). Most recently, Meir's counsel informed Vale's counsel that a complete production would be made by July 14, 2021. *Id.* (Email from R. Wolter to A. Saenz dated July 9, 2021 identifying complete production by Wednesday, July 14). All of these dates have come and gone without Meir complying with his Court-ordered obligations.

It has become clear from the months of delay that Meir does not in fact intend to comply with the subpoena without yet another order from the Court. *See Anhui Konka Green Lighting Co. v. Green Logic Led Elec. Supply, Inc.*, No. 18CV12255MKVKHP, 2020 WL 5743518, at *3 (S.D.N.Y. Sept. 25, 2020) (granting motion to compel discovery where defendants were "late to respond" and "provided a host of excuses" for delay, and ordering defendants to provide a written filing within six days detailing the location and status of documents requested); *Ambac Assurance Corp. v. U.S. Bank Nat'l Ass'n*, No. 117CV2614WHPKHP, 2020 WL 526404, at *2 (S.D.N.Y. Feb. 3, 2020) (granting motion to compel discovery where counsel for non-party subpoena recipient repeatedly failed to reply to party's counsel, and failed to meet two agreed-upon production dates, and ordering that documents be produced within a month or "face sanctions").

Vale thus respectfully requests that the Court set a deadline for Meir to complete production of documents responsive to Vale's subpoena by August 6, 2021 or, to the extent the Court does not enter an order by such date, within one week after the Court's order. As Meir has been promising document production to Vale for months, and his most recent communication to us on July 9 stated that he needed only three more business days to comply, a short deadline is both reasonable and warranted here.

Respectfully submitted,

/s/ Jeffrey A. Rosenthal

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cc: Counsel of Record via ECF